

Committee on Resources

Witness Testimony

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Hon. Don Young, Chairman
Committee on Resources
U.S. House of Representatives
Washington, DC 20515
March 6, 1998

Dear Chairman Young:

I hereby submit The Wilderness Society testimony on H.R. 3087, heard before the Committee on Resources, U.S. House of Representatives on February 25, 1998, for the record, and ask that it be included in the written record of the hearing.

Attached are the testimony and the required disclosure and vitae information to comply with rules for nongovernmental witnesses.

Thank you.

Sincerely yours,

Allen E. Smith

Alaska Regional Director

CC: Hon. George Miller

Ranking Democratic Member

Committee on Resources

U.S. House of Representatives

Washington, DC 20515

ATTACHMENTS:

**WRITTEN STATEMENT OF ALLEN E. SMITH, ALASKA REGIONAL DIRECTOR, THE
WILDERNESS SOCIETY TO THE HEARING RECORD ON H.R. 3087 BEFORE THE
RESOURCES COMMITTEE, U.S. HOUSE OF REPRESENTATIVES,**

SUBMITTED MARCH 6, 1998

INTRODUCTION:

The Wilderness Society appreciates the opportunity to submit comments for the record on H.R. 3087. This bill would force the Secretary of Agriculture to grant Chugach Alaska Corporation (CAC) an "irrevocable and perpetual" 500-foot-wide, 25-mile-long easement through the heart of the Copper River Delta, one of the most fragile and productive ecosystems in the Chugach National Forest. Although we believe CAC should make a fair profit from its land, the proposed bill is unnecessary and undermines months of productive discussions between CAC and the Forest Service. Under the Alaska National Interest Lands Conservation Act (ANILCA), CAC is entitled to access its in-holdings, subject to appropriate conditions to safeguard the public interest. Accordingly, the Forest Service has worked closely with CAC to develop a process for identifying an economically viable, yet environmentally sensitive right-of-way to the corporation's land. H.R. 3087 rejects this responsible approach in favor of immediate but poorly-considered action. The bill's hasty "solution" to a complex issue may ultimately harm both the public's and CAC's interests while threatening the health and viability of one of the world's environmental gems. We therefore oppose H.R. 3087.

THE COPPER RIVER DELTA:

The Copper River is located in a remote area of south-central Alaska and drains significant parts of the Alaska, Wrangell, and Chugach mountain ranges into the Gulf of Alaska. For much of its length, the river forms the western boundary of the Wrangell-St. Elias National Park, the largest national park in the country. The St. Elias mountains to the east of the Copper River are the tallest coastal mountains in the world and are capped by the greatest mantle of glacial ice outside the polar ice caps and Greenland.

The Copper River Delta lies at the confluence of the Copper River and the Gulf of Alaska. At 700,000 acres, it is the largest wetlands complex on the Pacific coast of North America and an ecosystem of almost unparalleled productivity. The Delta hosts incredible numbers and varieties of fish and wildlife. Considered by biologists to be the most important shorebird habitat in the western hemisphere, the Delta is a critical staging area for over 16 million shorebirds and other species of waterfowl. It supports world-renowned salmon runs and is a haven for grizzly bears, black bears, wolves, moose, mink, wolverines, otters, sea lions, and harbor seals.

TWS STATEMENT ON H.R. 3087, 3/6/98, Page 2 of 5.

The Delta is also a place of great beauty and uncompromising wildness. Ragged peaks of rock and snow crowd the watershed. Glaciers of pale blue ice split with explosive force and topple into the river. Sculpted icebergs ride the silty, turbulent waters along with the logs, brush, and other victims of the river's erosive appetite. Seals swim inland for miles hunting salmon while enormous brown bears patrol the shore. These scenes from an almost prehistoric landscape are

accompanied by the uneasy music of current, ice, and wind. There are other great wetlands ecosystems in the world, but few are as magnificent and dynamic as the Copper River Delta.

Notwithstanding its harsh, untamed appearance, the Delta has nurtured the people of the Copper River area for thousands of years. For generations, the Eyak people have depended upon the bountiful fish and wildlife that thrive in the region. Today, over half of the 5,000 people who live in the Copper River basin reside in the town of Cordova, separated from the Delta only by the narrow Heney Range. Cordova is the only community in the Copper River region, and over 90% of its people (many of whom are Native) continue to live a subsistence lifestyle-harvesting and sharing the area's sustainable natural resources. Commercial and subsistence fishing are the mainstays of Cordova's economy, in large part because of Copper River salmon-one of the most highly prized stocks of wild salmon in the world. The Copper River Delta is the nursery that sustains both salmon and human populations.

Even by Alaska's lofty standards, the Copper River Delta is a unique and irreplaceable natural wonder. Indeed, it has the rare distinction of being a Western Hemisphere Shorebird Reserve Network Site, an emphasis area in the North American Waterfowl Management Plan, and a State Critical Wildlife Habitat Area. Actions affecting this area should be thoroughly evaluated and responsive to a clearly-established need.

THE COPPER RIVER DELTA AND ANILCA:

In 1980, in ANILCA, Congress added the Copper/Rude River area to the Chugach National Forest. 16 U.S.C. § 539. At the same time, Congress explicitly recognized the extraordinary nature of the Copper River and the Copper River Delta, stating that "the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest." *Id.* Congress also cautioned that multiple use activities must be "consistent with the conservation of fish and wildlife and their habitat." *Id.* Notably, this is the only region in the entire United States national forest system in which protection and enhancement of fish and wildlife are afforded this statutory priority.

TWS STATEMENT ON H.R. 3087, 3/6/98, Page 3 of 5.

ANILCA also gave Chugach Natives, Inc. (CNI) the right to select lands within the boundaries of the Chugach National Forest. 16 U.S.C. § 1613. To ensure that CNI's shareholders obtained a "just and fair land settlement," the Secretary of Agriculture and others were directed to prepare a study of the Chugach region. 43 U.S.C. §§ 1601, 1611. Ultimately, CNI (now Chugach Alaska Corporation) and the Forest Service signed the 1982 Settlement Agreement directing the United States to convey to CNI 73,000 acres of land known as the Bering River/Carbon Mountain tract.

The Bering River/Carbon Mountain tract lies approximately 30 miles east of the Copper River Delta and 20 miles north of the Gulf of Alaska. It is bounded on three sides by the

Chugach National Forest and on the fourth side by Bureau of Land Management holdings. Under ANILCA, CAC is entitled to access its land by utilizing the procedures established by 16 U.S.C. § 3210. This is exactly the same right afforded to other Alaska Native corporations for accessing their own in-holdings. In addition, the 1982 Settlement Agreement provides that CAC may "construct, at its own cost, roads, pipelines and transportation facilities for access necessary for economic utilization of the Bering River coal fields."

CAC'S UTILIZATION OF THE BERING RIVER/CARBON MOUNTAIN TRACT:

One of the principal reasons CAC selected the Bering River/Carbon Mountain tract was the coal deposit that underlies this area. In fact, the easement described in the 1982 Settlement Agreement was specifically created to facilitate the exploitation of this mineral deposit. However, CAC no longer owns the rights to the coal. In 1981, CAC sold its interest in the Bering River coal field to a partnership between Hyundai, Samsung, and Samtung known as the Korea Alaska Development Corporation (KADCO). Thus, access to the Bering River/Carbon Mountain tract for purposes of mining coal will not further the economic interests of CAC.

In 1990, CAC entered into a Memorandum of Understanding (MOU) with the Forest Service in order to build a road to its in-holding and develop the timber resources. Both parties recognized the environmental significance of the area traversed by the proposed road and agreed that a full environmental impact statement (EIS) pursuant to the National Environmental Policy Act was the "best way to adequately assess and disclose the impacts of constructing and operating a road through this area." The agreement provided for appropriate data collection and studies and afforded an opportunity for meaningful public involvement. Although CAC eventually withdrew its project proposal, it is important to note that the environmental studies CAC believed necessary in 1990 would not be conducted if H.R. 3087 were passed.

TWS STATEMENT ON H.R. 3087, 3/6/98, Page 4 of 5.

CAC now intends to cut down approximately 8,000 acres of coastal rain forest on the Bering River/Carbon Mountain tract, and to construct as many as 70 miles of new service roads. To access the land, it proposes to build a road from Cordova directly across the Delta. This road would sever 250 streams that feed into the Copper River and potentially degrade thousands of acres of tidal marshes and other wetlands. Without question, a road across the Copper River Delta and hundreds of its tributaries will significantly affect the environmental and aesthetic values of the area. In fact, it would be one of the single largest wetlands development projects in the country.

CAC and the Forest Service are both fully aware of the richness of the Copper River Delta and the environmental threat posed by a major road project. Consequently, they have spent months developing a new agreement that will establish a procedure for processing CAC's application for a permit and conducting critical environmental studies. We understand that this agreement will be finalized within the next two weeks.

H.R. 3087

H.R. 3087 is an unnecessary and imprudent "solution" to a problem that does not exist. There is no question that CAC is entitled to a fair profit from its land holdings. However, CAC's access to land within the Chugach National Forest affects the interests of the general public as well as its own fiscal interests. The process for balancing these various interests has been carefully defined by ANILCA and the 1982 Settlement Agreement. CAC was aware of the provisions of ANILCA when it selected the Bering River/Carbon Mountain tract and was a party to the 1982 Settlement Agreement. Therefore, it is no surprise to CAC that its proposed right-of-way must be examined carefully and in coordination with the Forest Service.

The proposed bill ignores the provisions of ANILCA, the terms negotiated by CAC in the 1982 Settlement Agreement and 1990 MOU, and the considerable progress CAC and the Forest Service have already made toward establishing an easement. Moreover, the expansive 500-foot width of the easement is apparently unprecedented for a right-of-way across public land (and is harshly criticized by Alaska's Department of

Fish and Game), and seems designed to provide CAC with a windfall, rather than to remedy any real inequity. Forcing the Forest Service to grant an easement in 90 days-bypassing the negotiations between the parties and ignoring the critical need to conduct environmental studies-is a slap-dash approach to a complex situation in which all Alaskans have a deep and passionate interest.

CONCLUSION:

The Wilderness Society and its 250,000 members strongly oppose H.R. 3087. It requires finesse, not a sledge hammer, to responsibly evaluate a 25-mile road project

TWS STATEMENT ON H.R. 3087, 3/6/98, Page 5 of 5.

affecting one of the world's most unique and spectacular wetlands. In fact, some CAC shareholders believe that building a road through the Copper River Delta and clear-cutting the corporation's land may not be fiscally and culturally desirable, and they would like the opportunity to more carefully assess the alternatives to the project. For instance, CAC shareholders may obtain a greater financial return, while retaining the ability to pursue subsistence and other traditional activities, by selling a conservation easement on the Bering River-Carbon Mountain tract and preserving the area for future generations.

Sound public policy dictates extreme caution. The Copper River Delta is an extraordinarily complex and fragile ecosystem. It was created by the forces of nature over tens of thousands of years and, once destroyed, can never be recreated by human beings. The Delta should be treated with the care shown to any other international treasure-not exploited with minimal environmental review and no public input.

Thank you for the opportunity to comment.

Respectfully submitted,

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